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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,785

05/04/2005

Jeroen Wigard

60091.00389

6075

32294

7590

04/17/2006

SQUIRE, SANDERS & DEMPSEY L.L.P.  
14TH FLOOR  
8000 TOWERS CRESCENT  
TYSONS CORNER, VA 22182

EXAMINER
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SANTIAGO CORDERO, MARIVELISSE

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/533,785	Applicant(s) WIGARD ET AL.	
	Examiner Marivelisse Santiago-Cordero	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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### **DETAILED ACTION**

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

#### ***Information Disclosure Statement***

2. The references cited in the Information Disclosure Statement (IDS) filed on 05/04/05 have been considered.

#### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

**The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.**

4. The disclosure is objected to because of the following informalities: the term "standardisation" (page 6, line 20) should be replaced with --standardization--.

Appropriate correction is required.

#### ***Claim Objections***

5. Claims 1-10 and 19-20 are objected to because of the following informalities: the term "the number" (claims 1-2 and 9-10, line 3; claims 19-20, line 2) should be replaced with --a number--. In addition, the term "the" in "the users" (claim 2, line 9) should be deleted. Appropriate correction is required.

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6. Claims 3 and 11 are objected to because of the following informalities: the term “the basis” should be replaced with --a basis--; and the term “the required Quality of Service” should be replaced with --a required Quality of Service--. In addition, for clarification purposes it is respectfully suggested to incorporate the acronym “QoS” in parenthesis. Appropriate correction is required.

7. Claims 4 and 12 are objected to because of the following informalities: the term “the basis” should be replaced with --a basis--. In addition, for clarification purposes the following is respectfully suggested: to incorporate the acronyms “QoS” and “ARP” in parenthesis, and to rearrange the wording as e.g., --on a basis of a Quality of Service (QoS) parameter, wherein the parameter is Allocation Retention Priority (ARP)--. Appropriate correction is required.

8. Claims 5-6 are objected to because of the following informalities: the term “the user” (line 3 of each claim) should be replaced with --a user--. Appropriate correction is required.

9. Claims 7 and 15 are objected to because of the following informalities: the term “form” (claim 7, line 2) should be replaced with --from--; the term “the user” (claim 7, lines 2 and 3; claim 15, lines 3 and 4) should be replaced with --a user--; the term “the lowest priority” (claim 7, line 3; claim 15, line 4) should be replaced with --a lowest priority--; the term “the general minimum bit rate” (claim 7, lines 2-3; claim 15, line 3) should be replaced with --a general minimum bit rate--; the term “the class specific minimum bit rate” (claim 7, line 4; claim 15, line 5) should be replaced with --a class specific minimum bit rate--. Appropriate correction is required.

10. Claim 8 is objected to because of the following informalities: the term “the required number” should be replaced with --a required number--. Appropriate correction is required.

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11. Claims 8 and 16 are objected to because of the following informalities: the term “the control channel” should be replaced with --a control channel--. Appropriate correction is required.

12. Claims 18 and 22 are objected to because of the following informalities: the terms “the maximum target” and “the transmission power” should be replaced with --a maximum target-- and --a transmission power--. Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Raitola et al. (hereinafter “Raitola”; WO 01/63851 A1).

Regarding claim 1, Raitola discloses a data transmission method in a telecommunication system, the method comprising: determining the number of bit rate classes (Fig. 3; page 20, lines 18-22); setting bit rates for the bit rate classes (Fig. 3; page 20, lines 18-22); setting a maximum transmission power target (Figs. 3-4; page 10, lines 10-11); arranging resource requests into a queue (Fig. 4); allocating resources according to the requests in the queue until the maximum power target is achieved (Fig. 4).

Regarding claim 2, Raitola discloses a data transmission method in a telecommunication system, the method comprising: determining the number of bit rate classes (Fig. 3; page 20, lines 18-22); setting bit rates for the bit rate classes (Fig. 3; page 20, lines 18-22); setting a maximum

transmission power target (Figs. 3-7B; page 10, lines 10-11); arranging resource requests into a queue (Fig. 4); allocating resources according to the requests in the queue (Fig. 4); if the maximum power target is not achieved when resources have been allocated to all the users in the queue, increasing the bit rates on the basis of the queue until the maximum power target is achieved (Fig. 4); if the resource requests cause too much load in relation to the maximum power target, decreasing the required number of bit rates in a predetermined way (Fig. 6; page 18, lines 5-10).

Regarding claim 3, Raitola discloses the method of claim 1, further comprising determining the bit rate classes on the basis of the required Quality of Service, QoS (page 20, lines 18-28; note that bit rates are in fact QoS).

Regarding claim 4, Raitola discloses the method of claim 1, further comprising setting the bit rate classes on the basis of a Quality of Service, QoS, parameter ARP, Allocation Retention Priority (page 20, lines 18-32; note that the classes can be fairly characterized as being set on the basis of Allocation Retention Priority since bearers are prioritized).

Regarding claim 5, Raitola discloses the method of claim 2, further comprising: when the maximum power threshold is exceeded the bit rate decreasing by allocating to the user a general minimum bit rate (Fig. 7b; page 20, lines 10-16; note that the general minimum bit rate is 128 kbps).

Regarding claim 6, Raitola discloses the method of claim 2, further comprising: when the maximum power threshold is exceeded the bit rate decreasing by allocating to the user a class-specific minimum bit rate (Fig. 6; page 20, lines 10-28).

Regarding claim 7, Raitola discloses the method of claim 2, wherein the decreasing of the bit rate starts from the user who has a bit rate higher than a general minimum bit rate (Fig. 7b; note that the general minimum bit rate is 128 kbps) and the lowest priority (Fig. 7b; note the second user from bottom to top), followed by the user who has a bit rate higher than a class specific minimum bit rate and the lowest priority (Fig. 7b; note the first user, i.e., the bottom user).

Regarding claim 8, Raitola discloses the method of claim 2, further comprising: if a general minimum bit rate or a class specific minimum bit rate is allocated to the users (Fig. 7b) and the load remains too high (Fig. 7b), the required number of users are transferred to a control channel (Fig. 7b).

Regarding claim 9, Raitola discloses a radio network controller (page 9, lines 4-5) comprising: means for determining the number of bit rate classes (Fig. 3; page 20, lines 18-22); means for setting bit rates for the bit rate classes (Fig. 3; page 20, lines 18-22); means for setting a maximum transmission power target (Figs. 3-7B; page 10, lines 10-11); means for arranging resource requests into a queue (Fig. 4); means for allocating resources according to the requests in the queue until the maximum power target is achieved (Fig. 4).

Regarding claim 10, Raitola discloses a radio network controller (page 9, lines 4-5) comprising: means for determining the number of bit rate classes (Fig. 3; page 20, lines 18-22); means for setting bit rates for the bit rate classes (Fig. 3; page 20, lines 18-22); means for setting a maximum transmission power target (Figs. 3-7B; page 10, lines 10-11); means for arranging resource requests into a queue (Fig. 4); means for allocating resources according to the requests in the queue (Fig. 4); means for increasing the bit rates on the basis of the queue until the

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maximum power target is achieved (Fig. 4); means for decreasing the required number of bit rates in a predetermined way (Fig. 6; page 18, lines 5-10).

Regarding claim 11, Raitola discloses the radio network controller of claim 10, further comprising means for determining the bit rate classes on the basis of the required Quality of Service, QoS (page 20, lines 18-28; note that bit rates are in fact QoS).

Regarding claim 12, Raitola discloses the radio network controller of claim 10, further comprising means for setting the bit rate classes on the basis of a Quality of Service, QoS, parameter ARP, Allocation Retention Priority (page 20, lines 18-32; note that the classes can be fairly characterized as being set on the basis of Allocation Retention Priority since bearers are prioritized).

Regarding claim 13, Raitola discloses the radio network controller of claim 10, further comprising means for decreasing the bit rate by allocating a general minimum bit rate to a user (Fig. 7b; page 20, lines 10-16; note that the general minimum bit rate is 128 kbps).

Regarding claim 14, Raitola discloses the radio network controller of claim 10, further comprising means for decreasing the bit rate by allocating the class specific minimum bit rate to a user (Fig. 6; page 20, lines 10-28).

Regarding claim 15, Raitola discloses the radio network controller of claim 10, further comprising means for starting the decreasing of the bit rate from the user who has a bit rate higher than a general minimum bit rate (Fig. 7b; note that the general minimum bit rate is 128 kbps) and the lowest priority (Fig. 7b; note the second user from bottom to top), followed by the user who has a bit rate higher than a class specific minimum bit rate and the lowest priority (Fig. 7b; note the first user, i.e., the bottom user).



Regarding claim 16, Raitola discloses the radio network controller of claim 10, further comprising means for transferring the needed number of users onto a control channel (Fig. 7b).

Regarding claim 17, Raitola discloses a base station (page 9, lines 27-30) comprising: means for arranging resource requests into a queue (Fig. 4; from page 9, line 31 through page 10, line 7); means for allocating resources according to the requests in the queue (Fig. 4; from page 9, line 31 through page 10, line 3).

Regarding claim 18, Raitola discloses a base station (page 9, lines 27-30) comprising: means for arranging resource requests into a queue (Fig. 4; from page 9, line 31 through page 10, line 7); means for allocating resources according to the requests in the queue (Fig. 4; from page 9, line 31 through page 10, line 3); means for increasing the bit rates on the basis of the queue until the maximum target set for the transmission power is achieved (Fig. 4); means for decreasing the required number of bit rates in a predetermined way (Fig. 6; page 20, lines 10-28).

Regarding claim 19, Raitola discloses a radio network controller (page 9, lines 4-5) configured to: determine the number of bit rate classes (Fig. 3; page 20, lines 18-22); set bit rates for the bit rate classes (Fig. 3; page 20, lines 18-22); set a maximum transmission power target (Figs. 4-7b; page 10, lines 10-11); arrange resource requests into a queue (Fig. 4; from page 9, line 31 through page 10, line 7); allocate resources according to the requests in the queue until the maximum power target is achieved (Fig. 4).

Regarding claim 20, Raitola discloses a radio network controller (page 9, lines 4-5) configured to: determine the number of bit rate classes (Fig. 3; page 20, lines 18-22); set bit rates for the bit rate classes (Fig. 3; page 20, lines 18-22); set a maximum transmission power target (Figs. 4-7b; page 10, lines 10-11); arrange resource requests into a queue; allocate resources

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according to the requests in the queue (Fig. 4; from page 9, line 31 through page 10, line 7); increase the bit rates on the basis of the queue until the maximum power target is achieved (Figs. 3-4); decrease the required number of bit rates in a predetermined way (Fig. 6).

Regarding claim 21, Raitola discloses a base station (page 9, lines 27-30) configured to: arrange resource requests into a queue (Fig. 4; from page 9, line 31 through page 10, line 7); allocate resources according to the requests in the queue (Fig. 4; from page 9, line 31 through page 10, line 7).

Regarding claim 22, Raitola discloses a base station (page 9, lines 27-30) configured to: arrange resource requests into a queue (Fig. 4; from page 9, line 31 through page 10, line 7); allocate resources according to the requests in the queue (Fig. 4; from page 9, line 31 through page 10, line 7); increase the bit rates on the basis of the queue until the maximum target set for the transmission power is achieved (Figs. 3-4); decrease the required number of bit rates in a predetermined way (Fig. 6).

### *Conclusion*

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marivelisse Santiago-Cordero whose telephone number is (571) 272-7839. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSC 4/11/06  
MSC

  
LESTER G. KINCAID  
SUPERVISORY PRIMARY EXAMINER